

AGREEMENT

Made this 12th day of September, 1994, by and between Advisory Neighborhood Commission 2E (hereinafter "ANC 2E"), C&A Trade Inc., doing business as Pagoda of Georgetown (the "Applicant"), and Ronald Sol Mlotek (the "Protestant").

WHEREAS, pursuant to Application No. 32879, Applicant has applied to the District of Columbia Alcohol Beverage Control Board (the "ABC Board") for a Class CR License (the "License") for its premises located at 1734 ~~Street~~ ^{Wisconsin} Ave., N.W. in the District; and

WHEREAS, the Protestant is the owner/occupant of the residential property located at 1723 34th Street N.W. in the District, immediately to the rear of Applicant's premises, and has filed a protest, timely and in good order, to Applicant's License before the ABC Board; and

WHEREAS, the aforementioned parties desire to settle all issues relating to the issuance of said License;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the aforementioned parties do voluntarily agree as follows:

1. Applicant agrees it shall operate a bona fide restaurant on said premises, pursuant to a valid Certificate of Occupancy permitting such use thereon.

2. Said restaurant shall have a maximum seating capacity of 30 persons.

3. On Sundays through Thursdays, the restaurant shall close the door to new customers at 11:00 p.m.; shall cease to serve any and all alcoholic beverages at 11:30 p.m., shall remove all alcoholic beverages from the tables, bar, and any customer serving area at 11:45 p.m.; and shall vacate the premises of any and all customers by 12:00 midnight.

4. On Fridays through Saturdays, the restaurant shall close the door to new customers at 11:30 p.m.; shall cease to serve any and all alcoholic beverages at 12:00 midnight; shall remove all alcoholic beverages from the

tables, bar, and any customer serving area at 12:15 a.m.; and shall vacate the premises of any and all customers by 12:30 a.m.

5. The Applicant agrees that the restaurant shall not have or use live entertainment of any kind.

6. The Applicant agrees that no vehicle of the Applicant or of Applicant's employees shall be parked in the alley behind the restaurant except within the present gates of the premises.

7. The Applicant agrees that all of the restaurant's garbage and refuse will be stored in a clean and sanitary manner, in accordance with applicable District of Columbia laws and regulations, and will be removed from the premises in a timely manner.

8. The Applicant agrees to insure that restaurant personnel refrain from disturbing noise or boisterous conversation after 10:00 p.m., either out of doors in the alley or in the rear of the building when the doors or windows are open.

9. The Applicant agrees to maintain the cooking ventilation system in a clean and properly operating condition, in conformity with all applicable D.C. regulations, so as to minimize the emission of odors.

10. The Applicant agrees that children of the Applicant and/or applicant's employees shall not be permitted to play in the public alley without adult supervision.

11. The Applicant agrees to provide notice to the immediate residential neighbors of all permit applications to the District Government relating to the restaurant, within a reasonable time prior to the filing thereof.

12. The Applicant agrees it shall not change, nor request the ABC Board for permission to make any change, as to the type of alcoholic beverages which may be served; the number of seats allowed as set forth herein; or the location, size, or configuration of the restaurant as it presently exists, as set forth in the restaurant's Certificate of Occupancy and other records of the Government of the District of Columbia.

13. The Parties hereto agree that any failure of the Applicant to adhere to the terms of this agreement shall constitute grounds for the ANC 2E or any other interested party to petition the ABC Board for issuance of an order to show cause, pursuant to 23 DCMR 1513.5, in order to gain Applicant's compliance with the terms of this Agreement;

14. The Applicant agrees that this Agreement, in its entirety, shall be binding upon any party to whom the present ABC License may be sold, assigned, or otherwise transferred, and that the provisions necessary to accomplish this result shall be included in any document relating to such a sale, assignment, or transfer.

15. The Applicant agrees to notify the Parties of any sale, assignment, or transfer of the License within a reasonable time prior thereto.

16. ANC 2E and the Protestant agree not to further protest the Application, subject to the ABC Board's acceptance of this agreement as a specific and express condition of the issuance/renewal of Applicant's present License.

C & A Trade, Inc.
dba "Pagoda of Georgetown"

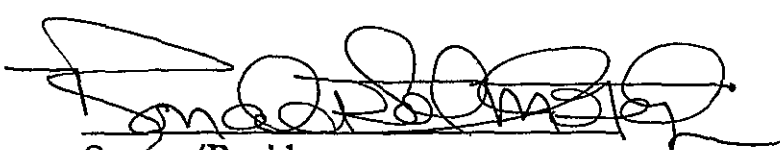
Advisory Neighborhood Commission,
2E

By: _____


YIWANG CHEN (President)

By: _____

Ronald Sol Mlotek


Owner/Resident,
1723 34th Street, N.W.,
Washington, D.C. 20007

BEFORE
THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:

C & A Trade, Inc.
t/a Pagoda of Georgetown
Application for a Retailer's
License Class "CR" - renewal
at premises
1734 Wisconsin Avenue, N.W.
Washington, D.C.

Case No. 32879-94078P

Ronald S. Mlotek, Protestant

Oscar Turner, Chair, on behalf of the Advisory Neighborhood Commission
2E, Protestant

Yiwang Chen, President, on behalf of the Applicant

BEFORE: MARY EVA CANDON, ESQUIRE, Chairperson
JAMES C. JEFFERSON, Member
JAMES L. O'DEA, III, ESQUIRE, Member
BARBARA L. SMITH, ESQUIRE, Member

ORDER ON WITHDRAWN PROTEST

The application, having been protested, came before the Board for public hearing on June 15, 1994, and was continued until August 10, and September 14, 1994 in accordance with D.C. Code Section 25-115 (c)(5)(1992 Supp.), providing for remonstrants to be heard. Oscar Turner, Chair, on behalf of the Advisory Neighborhood Commission 2E, and Ronald Mlotek filed timely individual protests by letters dated May 23 and May 30, 1994.

The official records of the Board reflect that parties have now reached an Agreement which has been reduced to writing, and has been properly executed and filed with the Board.^{1/} Pursuant to the Agreement, the Protestants have agreed to withdraw their protests provided, however, that the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the Agreement.

Accordingly, it is this 26 day of October 1994,
ORDERED that:

^{1/} See Agreement dated September 12, 1994.

C & A Trade, Inc.
t/a Pagoda of Georgetown
Page two

1. The protests of Oscar Turner, Chair, on behalf of the Advisory Neighborhood Commission 2E, and Ronald Mlotek be, and the same hereby, are **WITHDRAWN**;


2. The above-referenced Agreement between the parties be, and the same hereby, is **INCORPORATED** as part of this Order;


3. The application of C & A Trade, Inc. t/a Pagoda of Georgetown for a retailer's license class CR - renewal at premises 1734 Wisconsin Avenue, N.W., be, and the same hereby, is **GRANTED**; and,


4. Copies of this Order shall be sent to the Protestants and the Applicant.

DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD


Mary Eva Candon, Esquire
Chairman


James C. Jefferson,
Member


James L. O'Dea, III, Esquire
Member


Barbara L. Smith, Esquire
Member